

REMARKS

Applicant has carefully reviewed the Application in light of the Office Action mailed April 9, 2007. At the time of the Office Action, Claims 1, 2 and 4-29 were pending in the Application. At the time of the Office Action, Claims 1-26 were pending in the Application. Applicant amends Claims 1, 9, 16, and 23 without prejudice or disclaimer. The amendments to these claims are not the result of any prior art reference and, thus, do not narrow the scope of any of the claims. Furthermore, the amendments are not related to patentability issues and only further clarify subject matter already present. All of Applicant's amendments have only been done in order to advance prosecution in this case. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 101 and 112 Rejections

The Examiner rejects Claim 23 under 35 U.S.C. § 101 suggesting the claimed invention is directed to non-statutory subject matter. The Examiner rejects Claim 1 under 35 U.S.C. § 112, first paragraph, as being indefinite for failing to point out and distinctly claim the subject matter of which Applicant regards are the invention. Applicant hereby defers these issues until the substantive patentability of the pending claims is resolved. In the alternative, Applicant is certainly open to a suggested Examiner amendment to cure this issue and to comply with the latest and ever-changing guidance from the USPTO in attempting to address §101 and §112 issues.

Section 102 Rejection

The Examiner rejects 1, 2, 4, 7, 9-11, 14, 16-18, 21, 23-25, 27 and 29 under 35 U.S.C. § 102(e) as being anticipated by U.S. Publication No. 2004/0028060 issued to Kang (hereinafter "*Kang*").

Applicant respectfully reminds the Examiner that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.¹ In addition, "[t]he identical invention must be shown in as

¹ *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.

complete detail as is contained in the . . . claims” and “[t]he elements must be arranged as required by the claim.”² In regard to inherency of a reference, “[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic.”³ Thus, in relying upon the theory of inherency, an Examiner must provide a basis in fact and/or technical reasoning to support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.⁴ This rejection is respectfully traversed for the following reasons.

As amended, Independent Claim 1 recites: “*whereby full neighbor state updates are transmitted when a new neighbor relationship has formed between network elements, and whereby neighboring network elements that already have full state information ignore the full neighbor state updates while those neighboring network elements that are missing state information process the updates, and whereby a state when a full update of information is transmitted is described with a state sequence and subsequent transmissions of a protocol’s neighbor state information includes only the state sequence, and whereby if the network element receives two subsequent neighbor state packets from the same neighbor with different state sequences, the network element can request a neighbor state update from a sender by sending a currently known sequence number to a transmitting object.*”

Kang fails to account for any architecture in which any of these limitations are found. In particular, *Kang* does not disclose any system that provides for subsequent transmissions of a protocol’s neighbor state information including only the state sequence, and whereby if the network element receives two subsequent neighbor state packets from the same neighbor with different state sequences, the network element can request a neighbor state update from a sender by sending a currently known sequence number to a transmitting object. These limitations are now explicitly recited in Independent Claim 1 and, yet, are nowhere to be found in any of the cited references. For at least these reasons, the pending subject matter can be distinguished from *Kang*.

² *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 USPQ 2d 1566 (Fed. Cir. 1990); MPEP §2131 (*emphasis added*).

³ MPEP §2112 (citing *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ 2d 1955, 1957 (Fed. Cir. 1993) (*emphasis in original*)).

⁴ MPEP §2112 (citing *Ex Parte Levy*, 17 USPQ 2d 1461, 1464 (Bd. Pat. at App. and Inter. 1990) (*emphasis in original*)).

Section 103 Rejection

The Examiner rejects Claims 5-6, 8, 12-13, 15, 19-20, 22, 26, and 28 under 35 U.S.C. § 103(a) as being unpatentable over *Kang* in view of U.S. Publication No. 2003/0067924 issued to Choe et al. (hereinafter "*Choe*"). These rejections are moot in light of the arguments presented above: specifically, because no reference of record teaches many of the limitations of the pending subject matter and, hence, a proper §103 rejection cannot be sustained.

Thus, all of the pending claims have been shown to be allowable, as they are patentable over the references of record. Notice to this effect is respectfully requested in the form of a full allowance of these pending claims.

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CONCLUSION


Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

Applicant believes no fee is due. However, if this is not the case, the Commissioner is hereby authorized to charge any amount required or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas J. Frame at 214.953.6675.

Respectfully submitted,

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